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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2024

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.8344 of 2020

and

W.M.P.No.10011 and 10012 of 2020

Rangarajan

... Petitioner

Vs.

1. The Tahsildar,
Ariyalur – 621 704.

2. Thangarasu

3. Sub Registrar, Join-I,
Jayankondam Road, MIN Nagar, Ariyalur – 621 704.

4. Dalmia Minerals & Properties Ltd.,
Represented by its Authorized Signatory,
GF-3, Dalmia Block, Thathachariyar Thottam,
Srirangam Taluk, Trichy District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent culminating in the order bearing No. Mu.Mu.Aa 5/5020/ 2018 dated 25.11.2019 and quash the same and to consequently restrain the 2nd respondent its men, agents and servants and /or any person claiming any right



through sand /or under them from in any manner dealing with encumbering, conveying or otherwise creating any third party rights over the said property.

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For Petitioner	: Ms.Amiv Kataria
For R1 & R3	: Mr.G.Krishna Raja, Additional Government Pleader
For R2	: Mr.R.Gokula Krishnan
For R4	: Not ready in notice

ORDER

The transfer of patta granted in the name of the 2nd respondent by the Tahsildar in proceeding dated 25.11.2019 is sought to be quashed in the present writ petition.

2. The petitioner purchased the subject property described in the present writ petition from the 4th respondent / realtors namely Dalmia Minerals and Properties Limited. A Suit came to be instituted by the 2nd respondent in O.S.No.230 of 2007 and the petitioner was a party to the Civil Suit. The said Suit was decreed in favour of the 2nd respondent / Mr.Thangarasu on 20.06.2018. An Appeal Suit in A.S.No.22 of 2018 was



instituted, which was dismissed by the 1st Appellate Court on 01.11.2019.

Second Appeal in S.A.SR.No.20244 of 2020 is filed before the High Court on 14.02.2020. However, the Second Appeal is yet to be numbered.

3. On receipt of the copy of the judgment and decree in O.S.No.230 of 2007, the 2nd respondent filed an application under Section 3 of the Tamil Nadu Patta Pass Book Act, 1983 to transfer patta in his name. The Tahsildar granted patta in favour of the 2nd respondent and thus, the present writ petition came to be instituted by the writ petitioner.

4. Ms.Amiv Katari, learned counsel for the petitioner made a submission that no notice was issued to the writ petitioner and therefore, the decision unilaterally taken by the Tahsildar to transfer patta is in violation of principle of natural justice. No doubt the Second Appeal filed by the writ petitioner is yet to be numbered. Therefore, the decree as of now is in force and thus, there is no impediment for filing an application under Section 3 of the Act.

5. Rule 4 of the Tamil Nadu Patta Pass Book Act, 1987, provides Procedures on receipt of application or information. An Application may be



filed under Section 3 of the Act to issue of patta by the owner of the property.

“Owner” is defined under 2(6) means *any person holding land in severally or jointly or in common under a ryotwari settlement or in any way subject to the payment of revenue direct to the Government and includes a full owner or limited owner but does not include a mortgagee, lessee or a tenant*; On receipt of an application under Section 3 of the Act, the procedures contemplated under Rule 4 of the Tamil Nadu Patta Pass Book Rules are to be followed by the Tahsildar for the purpose of grant of patta.

6. Rule 4(3) denotes that on the prescribed date, the Tahsildar shall conduct a summary enquiry. Therefore, an enquiry has been contemplated under the Rules, which is to be conducted by affording opportunities to all the parties. In the present case, the impugned order transferring the patta was granted in favour of the 2nd respondent based on the judgment and decree passed in the Civil Suit in O.S.No.230 of 2007. Therefore, the Tahsildar ought to have issued notice to the parties to the Civil Suit for the purpose of conducting an enquiry, which is not done in the present case. Thus, the order impugned is infirm.

7. In view of the facts and circumstances, the impugned order issued



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by the 1st respondent in the order bearing No.Mu.Mu.Aa5/5020/2018 dated 25.11.2019 is quashed and the matter is remanded back for fresh adjudication of the issues on merits and by affording opportunities to all the parties. The 1st respondent is directed to issue notice as contemplated under the Patta Pass Book Rules and after conducting an enquiry and by considering the relative merits, pass appropriate orders as expeditiously as possible.

8. With the above directions, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

30.01.2024

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes

To

- 1.The Tahsildar,
Ariyalur – 621 704.
- 2.The Sub Registrar, Join-I,
Jayankondam Road, MIN Nagar, Ariyalur – 621 704.



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S.M.SUBRAMANIAM, J.

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